

STATE OF NEW YORK

7600

2021-2022 Regular Sessions

IN ASSEMBLY

May 18, 2021

Introduced by M. of A. LAVINE -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law and the penal law, in relation to increasing the safety and security of court officials and their immediate families; authorizing the board of election and the department of motor vehicles to make conforming changes relating to a court official's personal information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative purpose. The objective of this act, which shall
2 be referred to as the "New York State Judicial Security Act," is to
3 improve the safety and security of judges of the courts of the unified
4 court system and of the federal courts sitting in New York state, of
5 certain other persons working in or with these courts, and of the im-
6 mediate families of all of the foregoing. Greater confidence in their
7 personal safety and security, and in that of their family members, will
8 enable those involved in the administration of justice to perform their
9 duties fairly without fear of personal reprisal by litigants and others
10 affected by the decisions of courts, prosecutors, defense attorneys, and
11 others who work in and with the courts.

12 This objective will be accomplished by (i) providing a means by which
13 private information concerning active and former judges, nonjudicial
14 court personnel, prosecutors, defense attorneys, and others who work
15 with the courts, and their immediate families can be kept from public
16 display; and (ii) persons, businesses, associations, and public and
17 private agencies having such information can be forbidden from posting
18 it, or sharing or trading it with others.

19 § 2. The judiciary law is amended by adding a new article 22-B to read
20 as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09565-01-1

ARTICLE 22-BNEW YORK STATE JUDICIAL SECURITY ACTSection 858. New York state judicial security act.

858. New York state judicial security act. 1. Definitions. As used in this article:

(a) "Eligible court official" shall mean actively employed and former (i) judges and justices of the unified court system, including judges of the housing part of the civil court of the city of New York, (ii) federal judges sitting in New York, (iii) clerks of court of the unified court system and of the federal courts sitting in New York, (iv) United States attorneys serving in New York and their staff, (v) district attorneys in each county of the state and their staff, (vi) attorneys who appear in courts in New York and their staff, (vii) employees of the United States Marshal Service serving in New York and employees of the unified court system or a political subdivision of the state whose official duties include the provision of court security services, (viii) probation and pretrial officials serving in New York, and (ix) any other employee of the unified court system or of the federal courts established in New York designated by the chief administrator or the appropriate administrative authority for the federal courts, respectively, where, in his or her opinion, the employee's duties warrant designation as an eligible court official under this section in order to provide for the safety and security of such employee.

(b) "Immediate family" shall mean, for each eligible court official, the spouse, former spouse, parent, child, sibling, and any other person who regularly resides or has regularly resided in the eligible court official's household.

(c) "Personal information" shall include but not be limited to the following for an eligible court official and, if he or she so indicates as provided in subparagraph (ii) of paragraph (a) of subdivision two of this section, for the members of his or her immediate family: (i) home address, (ii) unlisted telephone number, (iii) cell phone number, (iv) email address, (v) social security number, (vi) driver license number, (vii) marital status and identity of any present and former spouse, (viii) identity of children under eighteen, (ix) bank account number, (x) credit or debit card number, (xi) personal identification number (PIN), (xii) automated or electronic signature, (xiii) unique biometric data, and (xiv) account passwords.

(d) "Making public the personal information" of an identified person shall mean any effort or action by a person, business, association, or public or private agency to post on the internet or otherwise display or publish in any medium accessible to the public such identified person's personal information, or to share or trade such information with others.

(e) "Written request" means an application in writing and signed by an eligible court official, or his or her representative, requesting that the chief administrator of the courts or the eligible court official's employer, as appropriate, notify one or more persons, businesses, associations, or public or private agencies that they must refrain from making public the personal information of that eligible court official.

2. Written request; notification by chief administrator of the courts or employer.

(a) This paragraph shall apply to each eligible court official or his or her representative, other than a United States attorney, district attorney, or attorney. An active eligible court official may submit a written request to the chief administrator of the courts. A former eligible court official may submit a written request to the official's

1 employer or to the person or office who would be his or her employer
2 were he or she still in service. For purposes of this subdivision, the
3 employer of a federal judge shall be the appropriate administrative
4 authority for the court in which he or she serves. The written request
5 shall specify:

6 (i) those items of personal information that the eligible court offi-
7 cial wishes to be kept from being made public;

8 (ii) the identity of members of the eligible court official's immedi-
9 ate family and indicate whether, for purposes of the written request,
10 his or her personal information should be deemed to include that of such
11 immediate family members;

12 (iii) whether the eligible court official wishes to identify a second-
13 ary residence as a home address; and

14 (iv) each person, business, association, and public or private agency
15 that the eligible court official wishes to bar from making public the
16 personal information of such eligible court official.

17 (b) The chief administrator and each employer to which a written
18 request may be submitted hereunder shall develop a system to review and
19 process such requests.

20 (c) If a written request has been properly submitted and is complete,
21 the chief administrator or employer, as appropriate, shall, within five
22 business days of receipt of such written request from an eligible court
23 official, notify each person, business, association, and public or
24 private agency identified in the written request that (i) beginning
25 within seventy-two hours of receipt of such notification, he, she, or it
26 must cease making public the personal information of the eligible court
27 official identified in such request, and (ii) within twenty business
28 days of such receipt, must delete or otherwise remove any existing post-
29 ing on the internet and any display or publication in any medium acces-
30 sible to the public containing such personal information as is specified
31 in the written request of the eligible court official on whose behalf
32 the notification is made. For purposes of this paragraph, notification
33 shall be by certified mail, return receipt requested, either at the
34 recipient's last known residence (if recipient is a person) or at the
35 recipient's principal office (which shall be the location at which the
36 office of the chief executive officer of the recipient is generally
37 located).

38 3. Each eligible court official to whom paragraph (a) of subdivision
39 two of this section does not apply may notify any person, business,
40 association, and public or private agency that (i) beginning within
41 seventy-two hours of receipt of such notification, the recipient thereof
42 must cease making public such personal information of such eligible
43 court official as may be specified in the notification (including
44 personal information of such immediate family members identified in the
45 notification), and (ii) within twenty business days of such receipt, the
46 recipient thereof must delete or otherwise remove any existing posting
47 on the internet and any display or publication in any medium accessible
48 to the public containing such personal information. For purposes of this
49 subdivision, notification shall be by certified mail, return receipt
50 requested, either at the recipient's last known address, if recipient is
51 a person, or at the recipient's principal office which shall be the
52 location at which the office of the chief executive officer of the
53 recipient is generally located.

54 4. Duration of notification. A notification issued on behalf of an
55 eligible court official pursuant to subdivision two or three of this
56 section expires on his or her death; provided, however, where a notifi-

1 cation hereunder bars making public the personal information of a member
2 of an eligible court official's immediate family, that bar shall remain
3 in effect until the death of such immediate family member unless that
4 person or the eligible court official sooner rescinds it. If an eligible
5 court official wishes to rescind such a notification, he or she may
6 provide a person, business, association, or public or private agency
7 with written permission to make public his or her personal information.

8 5. Recipient of notification not to make an eligible court official's
9 personal information public; judicial relief available upon non-compli-
10 ance. (a) After a person, business, association, or public or private
11 agency has received a notification pursuant to paragraph (b) of subdivi-
12 sion two or subdivision three of this section, he, she, or it shall have
13 (i) seventy-two hours to cease making public the personal information of
14 the eligible court official identified in such notification, and (ii)
15 twenty business days within which to delete or otherwise remove any
16 existing postings on the internet and any display or publication in any
17 medium accessible to the public containing such personal information.

18 (b) Judicial relief. An eligible court official may seek an injunction
19 or declaratory relief in a court of competent jurisdiction against a
20 person, business, association, or public or private agency that, after
21 receiving a notification pursuant to paragraph (b) of subdivision two of
22 this section, fails timely to comply with the requirements of such
23 notification. If the court grants such injunctive or declaratory relief,
24 the affected person, business, association, or agency shall be required
25 to pay the eligible court official's costs and reasonable attorney's
26 fees.

27 (c) Upon a violation of any order granting injunctive or declarative
28 relief obtained pursuant to this paragraph, the court issuing such order
29 may: (i) where the violator is a public entity, impose a fine not
30 exceeding one thousand dollars and require the payment of court costs
31 and reasonable attorney fees; or (ii) where the violator is a person,
32 business, association, or private agency, award damages to the affected
33 eligible court official in an amount up to a maximum of three times the
34 actual damages, but not less than four thousand dollars, and require the
35 payment of court costs and reasonable attorney fees.

36 § 3. Section 120.09 of the penal law, as added by chapter 148 of the
37 laws of 2011, is amended to read as follows:

38 § 120.09 Assault on a judge.

39 A person is guilty of assault on a judge when, with intent to cause
40 serious physical injury and prevent a judge from performing official
41 judicial duties, he or she causes serious physical injury to such judge.
42 For the purposes of this section, the term judge shall ~~mean a~~ include
43 an actively employed or former judge ~~[of a court of record or a justice~~
44 ~~court]~~ or justice of the unified court system, including a judge of the
45 housing part of the civil court of the city of New York, and an actively
46 employed or former federal judge or magistrate who sits in New York
47 state or, if a former federal judge or magistrate, who, while active,
48 sat in New York state.

49 Assault on a judge is a class C felony.

50 § 4. Section 120.40 of the penal law is amended by adding three new
51 subdivisions 6, 7 and 8 to read as follows:

52 6. "Social networking websites" shall mean websites on the internet
53 that permit persons to be registered users for the purpose of establish-
54 ing relationships with other users, where such persons (i) may create
55 web pages or profiles that provide information about themselves and/or
56 upload photos, video, written posts, and other content where such web

1 pages or profiles are available to the public or to other users, and/or
2 (ii) may communicate with other users, such as through chat rooms,
3 instant messenger, direct messaging, emailing, and/or message boards.

4 7. "Personal information" shall include, but is not limited to, the
5 following (i) home address, (ii) unlisted telephone number, (iii) cell
6 phone number, (iv) email address, (v) social security number, (vi) driv-
7 er license number, (vii) marital status and identity of any present and
8 former spouse, (viii) identity of children under eighteen, (ix) bank
9 account number, (x) credit or debit card number, (xi) personal identifi-
10 cation number (PIN), (xii) automated or electronic signature, (xiii)
11 unique biometric data, and (xiv) account passwords.

12 8. "Judge" shall include an actively employed or former judge or
13 justice of the unified court system, including a judge of the housing
14 part of the civil court of the city of New York, and an actively
15 employed or former federal judge or magistrate who sits in New York
16 state or, if a former federal judge or magistrate, who, while active,
17 sat in New York state.

18 § 5. Subdivision 2 of section 120.45 of the penal law, as amended by
19 chapter 184 of the laws of 2014, is amended to read as follows:

20 2. causes material harm to the mental or emotional health of such
21 person, where such conduct consists of either (i) following, telephoning
22 or initiating communication or contact with such person, a member of
23 such person's immediate family or a third party with whom such person is
24 acquainted, and the actor was previously clearly informed to cease that
25 conduct, or (ii) disseminating personal information through or posting
26 personal information on social networking websites about such person, a
27 member of such person's immediate family or a third party with whom such
28 person is acquainted; or

29 § 6. The first undesignated paragraph of section 120.45 of the penal
30 law, as amended by chapter 184 of the laws of 2014, is amended to read
31 as follows:

32 For the purposes of this section, it shall constitute presumptive
33 evidence of "having no legitimate purpose" when (i) the victim of the
34 conduct described under this section is a judge, or a member of his or
35 her immediate family, and (ii) the person charged pursuant to this
36 section, or a member of such person's immediate family, was or is a
37 party to a judicial proceeding pending before that judge. For purposes
38 of subdivision two of this section, "following" shall include the unau-
39 thorized tracking of such person's movements or location through the use
40 of a global positioning system or other device and (ii) any posting on
41 social networking websites of personal information shall be considered a
42 "course of conduct" when the defendant has been notified that the indi-
43 vidual whose personal information has been posted has requested the
44 dissemination cease and/or the posting be deleted or otherwise removed
45 from online publication and seventy-two hours have elapsed without such
46 cessation, deletion, or removal being either requested or completed.

47 § 7. Subdivision 5 of section 120.55 of the penal law, as added by
48 chapter 598 of the laws of 2003, is amended and a new subdivision 6 is
49 added to read as follows:

50 5. Commits the crime of stalking in the third degree, as defined in
51 subdivision three of section 120.50 of this article, against ten or more
52 persons, in ten or more separate transactions, for which the actor has
53 not been previously convicted[-]; or

54 6. Commits the crime of stalking in the fourth degree, as defined in
55 section 120.45 of this article, against a judge or a member of a judge's
56 immediate family.

§ 8. Section 120.60 of the penal law, as amended by chapter 434 of the laws of 2000, is amended to read as follows:

§ 120.60 Stalking in the first degree.

A person is guilty of stalking in the first degree when he or she:

1. commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

[1-] (a) intentionally or recklessly causes physical injury to the victim of such crime; or

[2-] (b) commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter, or

2. commits the crime of stalking in the second degree, as defined in subdivision six of section 120.55, and has previously been convicted of an offense defined under sections 120.45, 120.50, 120.55, or 120.60 of this article within the prior five years.

Stalking in the first degree is a class D felony.

§ 9. Notwithstanding provisions of the election law to the contrary, where a board of elections receives a notification pursuant to paragraph (b) of subdivision 2 or subdivision 3 of section 858 of the judiciary law, as added by section two of this act, the board shall comply therewith except that, where the notification requires the board to cease making a person's address public, the board shall not comply therewith until such time as any period prescribed by law for a challenge to such person as a candidate for political office on the basis of his or her residence shall have expired.

§ 10. Notwithstanding any other provision of law, where the state department of motor vehicles receives a notification pursuant to paragraph (b) of subdivision 2 or subdivision 3 of section 858 of the judiciary law, as added by section two of this act, the department shall comply therewith except that, where the notification requires the department to cease making a person's address public, the department may make public his or her business address.

§ 11. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, the provisions of sections three, four, five, six, seven and eight of this act shall not take effect until the first day of November next succeeding the ninetieth day following the date on which this act shall become a law.